

**AMENDMENTS TO THE DRAWINGS**

*Please amend Figures 1 and 3-7 of the drawings with Replacement Sheets 1 (of 9) and 3-5 (of 9).*

**REMARKS**

***Summary of the Amendment***

Upon entry of the present Amendment, Claim 1 will have been cancelled without prejudice or disclaimer; and new Claims 8-11 will have been added. Accordingly, Claims 8-11 now remain currently pending.

Furthermore, the drawings (sheets 1 and 3-5) and the specification (paragraphs [0003-0004], [0007-0008], and [0027-0028]) will have been amended.

By the present Amendment and Remarks, Applicant submits that all outstanding rejections have been overcome, and respectfully requests the Examiner's indication that the subject application is now in condition for allowance.

***Proposed Amendment to the Drawings***

Replacements Sheets 1 (of 9) and 3-5 (of 9) for proposed amendments to Figures 1 and 3-7 have been submitted for consideration.

Figures 3-7 are discussed in the Description of Related Art section of the specification as conventional art references, therefore, a "Prior Art" label has been added to those figures.

Further, as requested by the Examiner (see Objection to the Drawings below), Applicant has amended Figures 1 and 3 to reflect the Examiner's request (see Replacement Sheets 1 and 3) to label the boxes identified by reference numerals 10, 11 in Figures 1, and reference numerals 110, 111 in Figure 3.

Moreover, the apparatus is now identified as "X" in Figure 1 and as "A" in Figure 3. Also the photodetector in Figs. 4 and 6 is now identified by reference numeral 108.

Accordingly, Applicant respectfully requests the Examiner to indicate approval of the aforementioned amendments shown in Replacement Sheets 1 (of 9) and 3-5 (of 9) for Figures 1 and 3-7.

***Traversal to the Objection to the Drawings***

The drawings are objected to because there are no labels for each block of Figures 1-11. The Examiner contends that these Figures need to have descriptive labels under

CFR 1.84(n) and 1.84(o). Then the Examiner submits that, for example, in Figure 1, reference number 6 should be labeled as a photodetector.

To further understand the aforementioned objection to the drawings, Applicant discussed the same over the telephone with Examiner Abdin (with regard to another similar application U.S. Patent Application No. 10/809,300). In particular, the Examiner requested that reference numerals 10, 11 in Figure 1, and 110, 111 in Figure 3 be labeled. Further, the Examiner request that the Figures discussed in the Background of the Specification be labeled as "Prior Art".

Applicant respectfully traverses the Examiner's request to label reference numerals 10, 11 in Figure 1, and reference numerals 110, 111 in Figure 3. In particular, Applicant is of the opinion that since Figures 1 and 3 are representative of an apparatus (as compared to method, flow diagram or box-type diagram) in which so-called "labeling" is typically not required. Moreover, it is impossible to add labels inside the boxes as the Examiner requests. However, in an effort to expedite prosecution, Applicant has amended Figures 1 and 3 to reflect the Examiner's requests (see Replacement Sheets 1 and 3).

Moreover, Applicant has provided Replacement Sheets 3-5 to add the "Prior Art Label" to Figures 5 through 7 as requested by the Examiner.

Accordingly, Applicant respectfully requests the Examiner to indicate approval of the aforementioned amendments to Figures 1 and 3-7 in the next Official Office Action.

#### *Amendments to the Specification*

Various amendments have been made to the specification (paragraphs [0003-0004], [0007-0008] and [0027-0028] to improve the overall form of the specification. In particular, description of features of the conventional art and of the present invention which were illustrated in the drawings, but inadvertently not discussed in the specification, was added to the aforementioned paragraphs. *It is believed that no new matter has been added to the specification.*

***Traversal of Rejection under 35 U.S.C. § 112-2 is Rendered Moot***

Claim 1 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Since Claim 1 has been cancelled, the aforementioned rejection is rendered moot.

***Traversal of Rejection under 35 U.S.C. § 103(a) is Rendered Moot***

Claim 1 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Publication No. 09-181340 to TATEKI in view of U.S. Patent No. 6,522,397 to BARRICAU.

Since Claim 1 has been cancelled, the aforementioned rejection is rendered moot.

***New Claims 8-11 are Allowable***

***Independent Claim 8 (and Dependent Claims 9-11):***

Applicant's new Independent Claim 8 recites, *inter alia*, . . . *wherein the shape of a spot of the luminous flux received by the position detecting photodetector has a pattern to satisfy the following relations: L1/L2>3 and L1>2<sup>1/2</sup>D . . . , and wherein the parting lines intersect with the major axis of the linearly elongated spot shape at an angle.* Applicant respectfully submits that neither BARRICAU or TATEKI, whether considered individually or in proper combination, do not teach or suggest the aforementioned features recited in Claim 8 of the present invention.

With regard to BARRICAU, the spectral filter means 30 (Fig. 3) is tuned to a frequency close to the laser beam 18 on CCD video camera 24 (column 5, lines 25-34 and Fig. 4), and the spectral filter means 30 does not have a function to convert the shape of the laser beam 18. Therefore, it appears BARRICAU does not teach or suggest *inter alia*, . . . *wherein the shape of a spot of the luminous flux received by the position detecting photodetector has a pattern to satisfy the following relations: L1/L2>3 and*

*LI>2<sup>1/2</sup>D . . . , and wherein the parting lines intersect with the major axis of the linearly elongated spot shape at an angle.*

Moreover, TATEKI does not disclose the parameter D of the present invention either. Furthermore, because the spot of diffraction light of TATEKI of Fig.1 is circular, the spot of TATEKI does not satisfy L1/L2>3 in being L1/L2=1. Therefore, it appears TATEKI does not teach or suggest *inter alia*, . . . wherein the shape of a spot of the luminous flux received by the position detecting photodetector has a pattern to satisfy the following relations: L1/L2>3 and *LI>2<sup>1/2</sup>D . . . , and wherein the parting lines intersect with the major axis of the linearly elongated spot shape at an angle.*

Accordingly, Applicant respectfully submits that no proper combination of BARRICAU and TATEKI discloses or suggests at least the above noted features of the present invention, and thus a rejection of at least Claim 8 under either under 35 U.S.C. §§ 102 or 103(a) is improper.

Applicant further submits that new dependent Claims 9-11 are also allowable at least for the reason that these claims depend from allowable independent Claim 8 and further recite additional features that further define the present invention.

*Application is Allowable*

Applicant respectfully submits that each and every pending claim of the present invention meets the requirements for patentability, and respectfully requests the Examiner to indicate in the next Office Action that the subject application is now in condition for allowance.

**CONCLUSION**

Applicant respectfully submits that each and every pending claim of the present application meets the requirement for patentability, and respectfully requests that the Examiner indicate that the subject application is now in condition for allowance.

Further, any amendments to the claims which have been made in this response and which have not been made specifically to overcome a rejection based on the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Further, the Commissioner is authorized to charge Deposit Account No. 502456 for any additional fees incurred pertaining to this response.

Respectfully submitted,

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